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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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मामला क्रमांक WP No. 5422/2006 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	Petitioner	Ku. Sujata Singh, D/o Dr. (Major) T.A. Singh, aged about 19 years, R/o Qrt. OB-1, CSEB Colony, Tifra-Bilaspur, District Bilaspur (CG).
		-Versus-
	Respondents	1. State of Chhattisgarh, through the Secretary, Health & Family Welfare, Medical Education Department, DKS Bhawan, Raipur (CG).
		2. The Director, Medical Education, Raipur (CG).
		3. Chhattisgarh Institute of Medical Sciences - through its Dean, Chhattisgarh Institute of Medical Sciences, Bilaspur (CG).
		4. Guru Ghasidas University - Through its Registrar, Guru Ghasidas University, Bilaspur (CG).
		5. Anubhav Chandrakar, 1st year, M.B.B.S. Student, C.I.M.S., Bilaspur (CG).
	(Writ Petition under Article 226/227 of the Constitution of India)	
	Division Bench :	
	Hon'ble Shri L.C. Bhadoo &	
	Hon'ble Shri Dhirendra Mishra, JJ	

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14-6-2007

Shri P. Diwakar, Sr. Advocate with Shri Kunal Das, counsel for the petitioner.

Shri U.N.S. Deo, Govt. Advocate for the State/respondents No.1 & 2.

Shri Manindra Shrivastava, Sr. Advocate with Shri Devendra Patel, counsel for respondents No.3 & 4.

Shri Kishore Bhaduri, counsel for respondent No.5.

Heard.

By this writ petition under Article 226/227 of the Constitution of India, the petitioner who appeared as unreserved Sainik class candidate in PMT Examination, 2006 held by respondent No.2. She was admitted in the first year MBBS course in CIMS, Bilaspur, against the payment seat of unreserved Sainik class candidate, has challenged the orders dated 23-9-2006 (Annexure-P/15) & 27-9-2006 (Anexure-P/16) issued by the Director, Medical Education & Dean, Chhattisgarh Institute of Medical Sciences, respectively, whereby the admission of the petitioner has been cancelled. Hence the petitioner prayed for quashment of orders dated 23-9-2006 & 27-9-2006 passed by the Director Medical Education & Dean, Chhattisgarh Institute of Medical Sciences and further prayed that she be allowed to continue to pursue her studies.

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आदेश पत्रक (पूर्वानुबद्ध)

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Brief facts leading to filing of this writ petition are that the petitioner appeared in PMT Examination 2006 for first year MBBS course, she was successful in the said examination and ultimately she was admitted as unreserved Sainik class candidate in CIMS against payment quota seat, however, one Paritosh Sonkar filed a writ petition No.4788/2006, challenging the admissions in the first year MBBS course, on the ground that no reservation has been made for OBC Sainik class candidate and in that writ petition this Court passed an order dated 20-9-2006 to the effect that respondents No.4 & 5 therein are directed to reserve a seat for OBC Sainik class candidate and to give admission.

Pursuant to that order, the respondents after by cancelling the admission of the petitioner reserved one seat for OBC Sainik class candidate and ultimately when no OBC Sainik class eligible candidate was found, the admission was given to respondent No.5 herein as OBC no class candidate.

The contention of learned counsel for the petitioner is that when the petitioner was already admitted under the unreserved category as Sainik class candidate and no eligible candidate for OBC Sainik class was available in that case even after the Court's order the petitioner's admission ought to have been allowed to continue, as that seat was meant for Sainik class and petitioner belongs to that class, as such, by cancelling the petitioner's

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आदेश पत्रक (पूर्वानुबद्ध)

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admission, respondent No.5 could not have been admitted, as he does not belong to Sainik class.

During the course of arguments, learned counsel for the parties made a submission that even if petitioner's petition is allowed she could not be given admission for the session 2006 after 30-9-2006 in view of the decision of Supreme Court rendered in the matter of **Mridul Dhar (Minor) and another vs. Union of India and others (2005) 2 SCC 65** and the respondent No.5 has already been admitted against that seat. Therefore, in the circumstances, the appropriate course left is that respondents No.2 & 3 be directed to give admission to the petitioner against the payment seat in the session 2007-08, which is permissible as per the decision of Supreme Court rendered in the matter of **Aman Deep Jaswal vs. State of Punjab and others (2006) 9 SCC 597**, i.e. the admission can be given in the next session.

In view of the above, with the consent of counsel for the parties, it is directed that respondents should give admission to the petitioner against the payment seat as unreserved Sainik class in the session 2007-08.

With the aforesaid observations and directions the petition stands disposed of.

Sd/-
L.C.Bhadoo
Judge

Sd/-
Dhirendra Mishra
Judge

Gowri